

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY D.C.
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CLERK OF DISTRICT COURT
U.S. DISTRICT COURT
W.D. OF TENNESSEE

MICHAEL EDWARD ROGERS,

Plaintiff,

VS.

WILLIE DON,

Defendant.

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No. 05-1318-T/An

ORDER TRANSFERRING CASE PURSUANT TO 28 U.S.C. § 1406(a)

Plaintiff Michael Edward Rogers, Tennessee Department of Correction prisoner number 126750, an inmate at the West Tennessee State Penitentiary ("WTSP") in Henning, Tennessee, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983 on October 20, 2005, in the Eastern Division of the Western District of Tennessee. The plaintiff's claim arises out of his confinement at the WTSP, and the defendant, Willie Don, is employed at the WTSP. Because the case is being transferred, the filing fee issue should be addressed by the transferee court.

Twenty-eight U.S.C. § 1391(b) authorizes the commencement of a civil action only in a judicial district:

- (1) where any defendant resides, if all defendants reside in the same State,
- (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred . . . , or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.

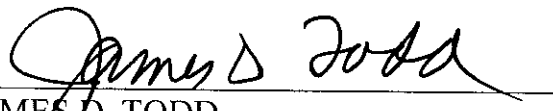
This claim has no connection with the Eastern Division of this district. The only defendant can apparently be found in Lauderdale County, which is located in the Western Division, and the allegedly wrongful acts occurred in Lauderdale County. Accordingly, the complaint asserts no basis for venue in the Eastern Division of this district.

Twenty-eight U.S.C. § 1406(a) states:

The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

For the reasons stated, this action should have been brought in the Western Division of this District. 28 U.S.C. § 123(c)(2). Therefore, it is ORDERED, pursuant to 28 U.S.C. § 1406(a), that this case is hereby TRANSFERRED to the Western Division of the Western District of Tennessee.

IT IS SO ORDERED this 29th day of November, 2005.


JAMES D. TODD
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 4 in case 1:05-CV-01318 was distributed by fax, mail, or direct printing on December 2, 2005 to the parties listed.

Michael Edward Rogers
W.T.S.P.
126750
P.O. Box 1150
Henning, TN 38041

Honorable James Todd
US DISTRICT COURT